THE HON'BLE SRI JUSTICE C.Y.SOMAYAJULU

WRIT PETITION No.5414 of 2004

Date: 26.09.2007

Between:

J. Siva Ram and another

……PETITIONER(S)

a n d

1. The Deputy Superintendent of Police, Nuzvid, Krishna District and another

……RESPONDENT(S)

THE HON'BLE SRI JUSTICE C.Y.SOMAYAJULU

WRIT PETITION No.5414 of 2004

ORDER:

This petition is filed to quash the FIR in Crime No.31 of 2004 registered under Sections 3(1)(x) & (xi) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short – 'the Act'), on the file of the Nuzvid Police Station, Nuzvid.

2. The case of the petitioners is that inasmuch as the 1st petitioner has published a report regarding the illegalities committed by the revenue officials, the revenue officials bore a grudge against him and sent two ladies to their office and made them file a false complaint against them and that they gave a report regarding the incident that took place in their office but the police without registering a case on the report given by them, falsely registered a case under Sections 3(1)(x) & (xi) of the Act on the basis of the report given by the ladies who created a scene in their office and so the FIR registered against them is liable to be quashed. On behalf of respondents 1 and 2, a counter affidavit of the second respondent is filed alleging that after investigation in Crime No.31 of 2004 is completed, a charge sheet was filed and so question of quashing the said FIR does not arise.

3. The contention of the learned counsel for petitioners is that

inasmuch as the police without taking any action on the report given by the petitioners have falsely implicated the petitioners in a crime registered on the basis of the false report given by the ladies their filing a charge sheet against the petitioners is unsustainable. The contention of the learned Government Pleader is that since this Court while considering the question relating to quashing of FIR cannot go into the merits of the case and can only look into the allegations in the FIR and if the allegations in the FIR disclose the commission of an offence, the same cannot be quashed and since the case does not fall in any of the categories mentioned in **STATE OF HARYANA v. BHAJAN LAL**[1] question of quashing the FIR does not arise. Relying on **ALEQUE PADMASEE AND OTHERS v. UNION OF INDIA AND OTHERS**[2] she contended that in case the petitioners feel aggrieved by the police not investigating into the report given by them, their remedy is to file a private complaint.

4. The proper remedy for the petitioners seeking quashing of the FIR is to file a petition under Section 482 Cr.P.C. It is well known that if the allegations of the FIR disclose commission of an offence, the Court cannot quash the FIR on the ground of mala fides of the complaint as held in **M.NARAYANDAS v. STATE OF KARNATAKA**[3] and this Court has to look into the allegations in the FIR only. The allegations in the FIR *prima facie* disclose commission of an offence alleged. Police seem to have filed a charge sheet against the petitioners. So, question of quashing the

FIR does not arise.

5. Regarding the alleged inaction on the part of the police on the complaint said to have been given by the petitioners, as rightly contended by the learned Government Pleader, the remedy of the petitioners is to file a private complaint as held in **ALEQUE PADMASEE** case (2 supra).

6. Hence, the petition is dismissed. No costs.

26.09.2007

Cvrk

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[1] AIR 1992 SC 605

[2] (2007) 6 SCC 171

[3] 2003 (11) SCC 251